IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE

APPEAL FROM ORDER NO.35 OF 2004
IN
NOTICE OF MOTION NO.2981 OF 2003
IN
L.C. SUIT NO.3726 OF 2003

Ghelabhai L. Patel & ors. ... Appellants

V/s.

B.M.C. & Anr. ... Respondents

Mr.M.P. Vashi for Appellants
Mr.J.Xavier for Respondents

CORAM: **SMT.NISHITA MHATRE, J.**

DATED: **NOVEMBER 29, 2004**

P.C.:

. The Appeal from Order has been filed challenging the order passed in the Motion. The appellants were issued the notice under section 314 of the Mumbai Municipal Corporation Act. According to that, the structures occupied by the appellants were offending structures and fell within the land which was acquired for road widening. The appellants claim that they have been issued a letter by the authorities stating that the road widening would be to the extent of 120' and not 150' as mentioned earlier. According to the appellant, in view of the width of the road being reduced from 150' to 120', none of their structures will be affected by

the road widening. It appears that the appellants have already filed Chamber Summons No.465 of 2004 for amending the plaint and bringing on record the above fact.

2. In view of this, Mr.Vashi seeks to withdraw the Appeal from Order. Accordingly, Appeal from order is allowed to be withdrawn and dismissed as such. However, all the contentions taken in the Appeal from Order are kept open. The Chamber Summons which has been filed shall be heard and disposed of by 31.1.2005.

3. In the meantime, status quo as of today to continue.

4. In view of the dismissal of the Appeal from Order, nothing survives in Civil Application Nos.48 of 2004 and 1266 of 2004 and hence, the same are disposed of accordingly.